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A day of speculations in top court corridors

Possible homes for Federal Constitutional Court among questions on everyone's lips

By Nasir Iqbal in Islamabad

SITUATIONER

AS PARLIAMENT debated the historic 27th Constitutional Amendment on Monday, the corridors of the Supreme Court were charged with speculation and curiosity. From bar rooms to tearooms and even the canteen, lawyers and court officials found themselves gripped by the same set of burning questions:

Where will the proposed Federal Constitutional Court (FCC) be located? Who will lead it? And what will become of the mounting backlog of cases? Whether FCC will emerge as an independent constitutional authority and the Supreme Court will be transformed into a purely appellate body?

The 27th Amendment envisions a complete restructuring of the country's legal framework.

Inside the Supreme Court, talk swirled around possible homes for the FCC once the amendment sails through both houses of parliament. Would the new court take over the premises of the Federal Shariat Court (FSC) across the road? Or perhaps find space inside the Supreme Court's gleaming white facade?

The debate is particularly heated given the Supreme Court's recent multimillion-rupee facelift. The building now boasts a modern facilitation centre for litigants and a refurbished main entrance equipped with state-of-the-art facilities — developments that raise questions about whether a new institution might soon inherit the revamped complex.

Dark horse?

Adding intrigue to the mix is speculation over who will head the FCC. Justice Aminuddin Khan, who currently leads the SC's constitutional bench, is widely tipped to become its first chief justice. Yet, as one senior counsel remarked on condition of anonymity, "a dark horse candidate" could emerge to surprise many. "And if this happens," he said, "FCC [as the existing SC's constitutional bench] will continue to function inside the Supreme Court building." After all, the FCC will become the "top court" in the constitutional hierarchy, he reasoned

While many inside the legal fraternity see the FCC as a bold step forward, others question whether its creation addresses the pressing problem of the staggering backlog of nearly 60,000 cases pending before the Supreme Court.

Since the FCC's jurisdiction will be confined to constitutional interpretation and advisory matters, some argue that shifting the Supreme Court's premises — or even creating a separate court — may do little to ease the real burden on the system.

Interestingly, early drafts of the amendment had explored the idea of keeping the FCC within the current apex court building while relocating SC to the provincial branch registries as the supreme appellate forums to decide appeals coming out of the high courts.

This would have allowed appeals from the high courts to be heard closer to where they originate, reducing travel costs and easing the financial strain on litigants and lawyers alike. However, insiders claim that proposal was "abandoned".

Any place across Pakistan?

The current draft of the 27th Amendment specifies under Article 175L that the FCC's permanent seat will be in Islamabad, though it allows the court to convene elsewhere across the country with the approval of the President. Notably, it stops short of naming a specific building or location.

According to Article 175C, the first Chief Justice of the FCC will be appointed from among the sitting SC judges by the President on PM's advice. And in consultation with the FCC CJ and on the premier's advice, the President will also appoint the first batch of FCC judges. Article 175B provides that the court's strength will be determined by Parliament, or until then, fixed by the President, "with equal representation from each province".

Centre-provinces disputes

Under Article 175E, the FCC will have exclusive original jurisdiction in disputes between the federal and provincial governments. However, its powers will be limited to issuing declaratory judgments rather than enforcing decisions directly.

The 27th Amendment also proposes that all constitutional petitions, appeals, and review applications pending before the SC or its constitutional benches at the time the law takes effect will be automatically transferred to the FCC. The new court will inherit and decide all such cases. Moreover, the FCC will have the authority to call up any case from another court if it believes the matter involves a substantial constitutional question.

As Monday's parliamentary debate raged on, the atmosphere at the Supreme Court reflected anticipation, uncertainty and reservations.

GAZA: Young displaced Palestinians wait with their containers to receive a portion of food at the Nuseirat refugee camp, in central Gaza Strip. Despite some progress in delivering food to the Palestinians, the territory, ravaged by conflict and wracked by hunger, remains in urgent need of humanitarian assistance.—AFP

NSC backed Bajwa in Balakot crisis

• CJCSC urged troop mobilisation • COAS cautioned against hasty escalation

By Our Staff Reporter

ISLAMABAD: The National Security Committee (NSC) did not overrule the then army chief Gen Qamar Bajwa's response plan during the 2019 Balakot crisis, according to at least two participants of that meeting who spoke on Monday.

"The then army chief Gen Qamar Javed Bajwa's response strategy was agreed upon and executed by the Pakistan Air Force," said a federal minister who attended the meeting, adding that the then chairman of the joint chiefs of staff committee, Gen Zubair Hayat, had proposed a more radical option that was not accepted.

An armed forces official who also participated in the meeting gave a similar account, saying that then prime minister Imran Khan was "displeased" with Gen Hayat's suggestion, which he thought "did not make any sense."

The statements counter a recent claim by former defence secretary Lt Gen (Retd) Asif Yasin Malik, who said that during the 2019 NSC meeting held after the Balakot strikes, Gen Bajwa had advised restraint but was overruled by the air chief and the CJCSC.

The 2019 escalation followed a Feb 14 suicide bombing in Pulwama, India-occupied Kashmir, which killed 40 Indian paramilitary personnel.

India responded with airstrikes on Balakot on Feb 26, the first time since the 1971 war that Indian aircraft had crossed deep into Pakistani territory.

According to the two participants, who spoke separately to *Dawn*, the sequence of events began in the early hours of Feb 26, 2019, when then chief of general staff (CGS) Gen Nadeem Raza called Gen Bajwa at about 2:30am to report an Indian airstrike near Balakot.

Gen Bajwa asked for an assessment of the damage, and the CGS later informed him that no significant damage had occurred.

A seminary built during the Afghan war, used for religious education of local children, had been the intended target.

However, the missile missed its mark and landed some distance away, causing no casualties or structural damage.

Soon afterwards, the then air chief marshal Mujahid Anwar contacted Gen Bajwa to discuss the situation.

Gen Bajwa suggested that since no damage had been caused, the matter could be addressed during a meeting with the prime minister later that morning.

Before attending the NSC meeting, Gen Bajwa convened his core team at General Headquarters (GHQ), where the director general of military operations (DGMO) suggested that Pakistan must respond, but in a measured way, to avoid escalation.

The DGMO proposed that, unlike India's night raid on a single site, Pakistan should strike multiple targets in broad daylight to send a clear message and restore deterrence.

The response operation, later known as Operation Swift Retort, was conceived during these consultations.

Gen Bajwa then took the plan to the National Security Committee meeting at the Prime Minister's House. During the session, Gen Zubair Hayat spoke for about 40 minutes, emphasising that he was the prime minister's principal adviser in times of war.

When Gen Bajwa asked for his concrete suggestion, Gen Hayat proposed full mobilisation of troops and a declaration of war against India.

According to participants, Gen Bajwa cautioned against hasty escalation. He then presented the operational plan prepared at GHQ, which was approved by the NSC. The detailed strategy was subsequently discussed with the PAF chief, who executed the air operation, they recalled.

On Feb 27, Pakistani aircraft struck six targets in India-occupied Kashmir, hitting "open spaces" to demonstrate their capability to hit Indian targets without escalating the tensions further.

Judge blocks Trump move for states to 'undo' food aid benefits

Appeals court previously said reducing the aid would cause 'widespread harm'

BOSTON: A federal judge on Monday temporarily blocked the Trump administration from forcing states to "undo" measures taken to issue full SNAP food aid benefits, according to a court notice on Monday.

The move came after a federal appeals court late on Sunday allowed a judge's order to stand that directs the administration to fully fund this month's food aid benefits for 42 million low-income Americans.

On Saturday, the US Department of Agriculture had directed states to "undo" any steps taken to issue full SNAP benefits.

The agency warned states they could risk financial penalties if they did not comply.

But a federal judge in Boston on Monday morning temporarily blocked that directive. The ruling came at the request of 25 Democratic-led states and the District of Columbia, who argued the USDA could not compel them to reverse actions they took based on a prior court order.

US District Judge Indira Talwani scheduled an additional hearing on the matter for Monday afternoon.

The tangled legal situation has left the status of the country's main anti-hunger program uncertain as the government shutdown reached its 41st day on Monday.

The administration had previously appealed a lower court decision to the Boston-based 1st US Circuit Court of Appeals but it declined to halt a Rhode Island judge's decision requiring the USDA to ensure Americans receive their full SNAP benefits.

However, that ruling had no immediate impact because US Supreme Court Justice Ketanji Brown Jackson on Friday had already placed a temporary hold on the lower court order by US District Judge John McConnell.

The administration argued that McConnell could not force the USDA to find money beyond a contingency fund in the "metaphorical couch cushions" to pay for full SNAP benefits. It blamed Congress for the crisis and said it was up to lawmakers to resolve it.

In its decision, the three-judge appeals court panel acknowledged the government's position but sided with the lower court.

"We do not take lightly the government's concern that money used to fund November SNAP payments will be unavailable for other important nutrition assistance programs," US Circuit Judge Julie Rikelman wrote.

But Rikelman said the court could not find that McConnell abused his discretion, writing that a ruling for the administration would have led to "widespread harm" by "leaving tens of millions of Americans without food as winter approaches".

SNAP benefits, which cost between $8.5 billion and $9bn per month, are paid to eligible Americans whose income is below 130 per cent of the federal poverty line.

McConnell had previously ruled that the administration was required to either use emergency funding for partial benefits or tap additional funds to pay out November's SNAP benefits in full.

After the USDA opted to use only its $4.65bn contingency fund, McConnell on Thursday ordered it to tap a $23.35bn fund for child nutrition programs to provide the remaining $4bn needed. —Reuters

COP30 summit opens with a plea for countries to get along

• Indigenous leaders demand protection for their territories • Scientists highlight rapid destabilisation of the planet's frozen regions • It's unclear whether states would aim to negotiate a single, final agreement for end of the event

BELEM: The COP30 climate summit opened Monday in this Amazon city with the UN climate chief urging countries to cooperate with one another in the fight against a warming planet rather than battling over competing priorities.

Host country Brazil brokered an agreement on the agenda for the two-week summit, fending off attempts from developing-country negotiating blocs to shoehorn contentious issues like climate finance and carbon taxes into the formal talks.

The opening day was marked by calls for unity, stark warnings from scientists and Indigenous groups, and a notable absence by the US federal government that drew sharp criticism from one of its own governors.

"In this arena of COP30, your job here is not to fight one another — your job here is to fight this climate crisis, together," UN Climate Change Executive Secretary Simon Stiell told delegates from more than 190 countries attending the conference.

INDIGENOUS people in jubilant mood as they arrive at the venue of the opening ceremony of the COP30 summit in Belem.—Reuters

Stiell acknowledged that three decades of UN climate talks had helped to bend the curve in projected warming downward, "because of what was agreed in halls like this, with governments legislating, and markets responding."

It remained unclear whether countries would aim to negotiate a single, final agreement for the end of the event — a hard sell in a year of fractious global politics and US efforts to obstruct a transition away from fossil fuels.

Some officials have suggested that countries focus on smaller efforts that do not need universal consensus, after years of COP summits making lofty promises only to leave many unfulfilled.

Brazil's President Luiz Inacio Lula da Silva warned against interests trying to obscure the dangers of climate change in his opening remarks.

"They attack the institutions, the science, the universities," he said. "It's time to impose another defeat to denialists."

The world's biggest historical emitter of greenhouse gases, the United States, opted to skip the summit at the federal level, while US President Donald Trump asserts that climate change is a hoax.

However, a state-level US presence was expected, with California Gov Gavin Newsom and New Mexico Gov Michelle Lujan Grisham scheduled to arrive in Belem on Tuesday.

Addressing a global investors summit, Newsom questioned the federal government's disengagement. "What the hell is going on here?" Newsom said about the US government's absence from the talks.

"We're in Brazil, one of our great trading partners, one of the world's great democracies. I mean hell, home to all the rare earth metals we need. This is the country we should be engaging with instead of giving the middle finger with 50 percent tariffs," Newsom said.

European nations planned to use the summit to press for firm commitments. Germany said it would join other European countries to push for commitments to rein in fossil fuel use, a goal also promoted by Lula.

Warning signs

Delegates were joined by Indigenous leaders, who arrived on Sunday by boat after travelling some 3,000 kilometres (1,864 miles) from the Andes.

They are demanding more say in how their territories are managed as climate change escalates and industries such as mining, logging and oil drilling push deeper into forests.

"We want to make sure that they don't keep promising, that they will start protecting, because we as Indigenous people are the ones who suffer from these impacts of climate change," said Pablo Inuma Flores, an Indigenous leader from Peru.—Reuters

Sarkozy freed from prison after 20 days

PARIS: Former French President Nicolas Sarkozy was freed from prison on Monday after a 20-day stay he called a "nightmare," as a Paris court ruled he could be released while he appeals against his conviction for conspiring to raise funds from Libya.

Mr Sarkozy was released from La Sante prison in Paris shortly before 3pm, a source familiar with the case told AFP.

The 70-year-old former president, who maintains his innocence, departed in a car with tinted windows, escorted by police motorcyclists. With the appeal case underway, Sarkozy is now presumed innocent again.

A lower court in September found the right-wing politician, who was head of state from 2007 to 2012, guilty of seeking to acquire funding from Moamer Qadhafi's Libya for his victorious presidential campaign.

He was sentenced to five years behind bars and entered jail on Oct 21, becoming the first former head of a European Union state to be incarcerated. His lawyers swiftly sought his release.

During a court hearing earlier on Monday, Mr Sarkozy spoke about his imprisonment via video call from jail. "It's hard, very hard, certainly for any prisoner," he said. "I would even say it's gruelling."

He thanked the prison staff, whom he said "showed exceptional humanity and made this nightmare — because it is a nightmare — bearable."

Prosecutors had called for Sarkozy to be freed ahead of the appeal trial, which is scheduled for March. "The risks of collusion and pressure on witnesses justify the request for release under judicial supervision," said prosecutor Damien Brunet.

The court on Monday banned Sarkozy from leaving France and prohibited him from contacting former Libyan officials and senior French judicial officials, including Justice Minister Gerald Darmanin, who visited Sarkozy in prison last month.

Christophe Ingrain, a member of Sarkozy's defence team, hailed his client's release as "a step forward". His wife, singer and model Carla Bruni-Sarkozy, and two of his sons were in the courtroom to show support.

Sarkozy, a mentor to many conservative politicians, still wields considerable influence on the French right. Laurent Wauquiez, the parliamentary leader of the conservative Republicans, called the release on X "a fair and dignified decision, worthy of a man who has given so much to our country".

Sarkozy is the first French leader to be incarcerated since Philippe Petain, the Nazi collaborationist head of state jailed after World War II.

He has faced a flurry of legal woes since losing his 2012 reelection bid and has been convicted in two other cases.

In the so-called "Libyan case," prosecutors said his aides struck a deal with Qadhafi in 2005 to illegally fund his presidential run.

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